

291-595
IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 25TH DAY OF MARCH 1998

B E F O R E

THE HON'BLE MR. JUSTICE G.C. BHARUKA

WRIT PETITION NO. 23753 OF 1996

BETWEEN:

1. Sri. A.B. Harkunikar,
S/o late Bheemrao Harkunikar,
aged 51 years,
No. 135, Rangaswamy Temple Street,
Bangalore-53.

2. Smt. Vijayalakshmi,
D/o Late Bheemrao Harkunikar,
W/o late B.N. Veerabhadra,
aged 53 years,
No. 132, Rangaswamy Temple Street,
Bangalore - 53.

3. Smt. Shobhalatha,
D/o late Bheemrao Harkunikar,
W/o M.N. Cheluvachar,
aged about 43 years,
No. 1679/5, Sardar Patel Road,
Mysore-1.

4. Smt. Suvarnalatha,
D/o Late Bheemrao Harkunikar,
W/o Basavaraj Badiger,
aged about 35 years,
Anantha Nilaya, 2nd Cross,
Sathyanarayanapet,
Bellary-583 102.

....PETITIONERS

(By Sri. S. Siddappa, Advocate)

AND:

1. The Chief Secretary to Govt.
of Karnataka,
Vidhana Soudha,
Bangalore-560 001.

2. The Deputy Commissioner,
Dharwad Dist.
Dharwad.

3. The Tahsildar,
Haveri Taluk,
Haveri, Dharwad Dist.

4. Sri. Narasana Gowda
Santhana Gowda Kakade
S/o Santana Gowda Kakade
Major, resident of
Halgi, Haveri Taluk,
Dharwad Dist.

Deleted as per
Court order dt
2.6.1997

...RESPONDENT

This writ petition is filed under Articles :
of the Constitution of India praying to
respondents to pay compensatin amount to the petit
etc.,

This writ petition is coming on for hearing
the Court made the following

O R I

O R D E R

Heard Mr. S. Siddappa, learned counsel for the petitioners and Mrs. V. Vidya, learned H.C.G.D. for respondents 1 to 3.

2. The present writ petition has been filed by the legal heirs of one late Sri. Bheemabas Harkuniker, erstwhile owner of land measuring 11 acres 8 guntas in Sy. No. 93/1 of Mandur village, Haveri Taluk, Dharwad District, for issuance of mandamus directing the respondents herein to pay the amount of compensation payable to them as per Section 47 read with Section 42B of the Karnataka Land Reforms Act, 1961 (in short the 'Act').

3. Admittedly, the land in question ~~was~~ ^{had} tenanted lands and vested with State Government as per Section 44 of the Act on 1.3.1974. Subsequently, occupancy was registered in favour of the tenants as per the order dt. 6.4.1976 passed by the respondent Land Tribunal, Haveri, in case No. TEN/OCR/HLG/92-3/75-76. It is also ^a matter of record that the land in question was granted in favour of the 4th respondent subject to payment of premium and land revenue under Section 53 of the Act.

4. Mrs. Vidya, learned H.C.G.D., who ~~had~~ ^a been directed to peruse the record of the Land Tribunal, filed the same for my perusal. On perusal of the record, it is seen that the amount of compensation payable under Section 47 of the Act to the petitioner was determined by the ^{Tahsildar} ~~tribunal~~ and the same was paid to the petitioner. The petitioner has not filed any application for compensation under Section 47 of the Act. The petitioner has not filed any application for compensation under Section 47 of the Act.

accorded. But, nonetheless, till this date, the amount has not been paid to the petitioner. In the writ petition, it has been alleged that the respondent Tahsildar is not paying the amount on the ground that in respect of the land in question some agreement for sale was entered by the father of the petitioners with the tenants on part payment of Rs. 5,000/- and the Tahsildar wants that the same should be adjusted against the compensation to which they are statutorily entitled to. There is no communication from the Tahsildar or any other statutory authority taking any such stand. ~~the~~ statement of objections has been filed ^{but} ~~no~~ good reasons have ~~not~~ been given for not paying the amount.

5. In my opinion, no such pleas are available either to the Tahsildar or any of the statutory authority for detaining the amount of compensation to which the petitioners are statutorily entitled to. The deposit ^{amount} ~~has~~ to be paid by the Tahsildar. The petitioners are entitled to the amount of compensation payable under Section 47 of the Act.

6. Accordingly, the writ petitions is being disposed of with a direction to the respondent ^{Tahsildar} ~~to~~ pay the amount of compensation being Rs. 7,082/- with interest at 12% per annum to be calculated from 2.12.1977. The payment should be remitted to the 1st petitioner under a register post through a crossed bank draft ^{at} ~~the~~ the address set out in the present writ petition, namely Mr. A.B. Harkunikan S/o Late Bheem Rao Harkunikan, No. 105, Rangaswami Temple Street, Bangalore 13 since consent by other petitioners has been ~~not~~ at Annexure 'B'. At this juncture, I am told that a sum of Rs. 1,00,000/- has been deposited by the respondent.

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Tahsildar pursuant to interim order of this Court. The concerned Tahsildar is permitted to withdraw the said amount and remit the entire amount within one month from today.

7. In the result the writ petition is allowed with costs assessed at Rs. 500/- to be paid along with the amount of compensation.

Sd/-
JUDGE

jsk/-

